Supreme Court, U.S.
FILED
APR 2 1992
OFFICE OF THE CLERK

(2)

No. 91-1406

IN THE

Supreme Court of the United States

October Term, 1991

AMERICAN TRAIN DISPATCHERS ASSOCIATION,
Petitioner,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

SUPPLEMENTAL BRIEF

GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington, DC 20036
(202) 223-9738

Attorney for Petitioner

MARCH 1992

CASILLAS PRESS, INC., 1717 K STREET, N.W., WASHINGTON, D.C. 20036

IN THE

Supreme Court of the United States

October Term, 1991

No. 91-1406

AMERICAN TRAIN DISPATCHERS ASSOCIATION,
Petitioner,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

SUPPLEMENTAL BRIEF

Petitioner submits this supplemental brief to call attention to a recent opinion by this Court, issued December 3, 1991, subsequent to the denial of rehearing below. Rule 15.7.[1]

In *Board of Governors v. MCorp.*, 112 S.Ct. 459 (Nos. 90-913 & 90-914), the Court confirmed that *Leedom v. Kyne*, 358 U.S. 184 (1958), is not a broad license to enjoin on-going administrative proceedings where there exists meaningful and

---

[1]Although decided prior to the filing of the petition for writ of certiorari, counsel was unaware of the opinion until today, as he had not seen it in the traditional reporter tracking system.

adequate means for vindicating claimed rights. 112 S.Ct. at 465-66.[2]

Petitioner suggests the present posture of the *Leedom v. Kyne* exception — an exception which formed the basis for the decision below — strongly argues for summary disposition and remand in light of *Board of Governors v. MCorp.*

Respectfully submitted,

GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington, DC 20036
(202) 223-9738

Attorney for Petitioner

MARCH 31, 1992

[2]Although there is not an express statutory preclusion of injunctive actions which interfere with National Railroad Adjustment Board proceedings, such preclusion is implied from long-standing decisions of this Court. (Pet. 12-13). Moreover, preclusion most likely is not a requirement in this situation. *See:* Funk, William, *Administrative Law News (Supreme Court News)*, Vol. 17, No. 3, at p. 5 (ABA, Chicago, IL, Spring 1992).